

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

United States of America

vs.

Burnie Lee Randall,

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Case No. 4:06-583-TLW

ORDER

This matter is before the Court for consideration of defendant's "motion to reduce sentence pursuant to 18 U.S.C. § 3582(c)(2) based on the one to one ratio of crack to powder cocaine." The government opposes this motion.

Defendant Randall has moved pursuant to 18 U.S.C. § 3582(c)(2) for a reduction in his sentence. Specifically, Defendant requests that he be resentenced based on a crack to powder cocaine ratio of one to one. In 2008, Defendant previously moved for a reduction in his sentence under 18 U.S.C. § 3582 following the U.S. Sentencing Commission's 2-level reduction in offense levels for crack cocaine offenses. On June 30, 2009, this Court denied Defendant's motion for a reduction in his sentence because Defendant was sentenced pursuant to the career offender guideline set forth in U.S.S.G. § 4B1.1; thus, his sentence was not based on the crack cocaine drug weight and the reduction did not affect him.

After careful review of Defendant's motion, the government's response and the relevant legal authorities, the Court concludes that Defendant's present motion must also be denied. First, there has been no change in the crack cocaine sentencing guidelines or in the statutory mandatory minimums. This Court cannot conclude that the mere presence of pending legislation in Congress is an sufficient and proper basis for reducing a sentence under 18 U.S.C. § 3582(c)(2). Second,

Defendant was not sentenced pursuant to the crack cocaine offense levels, but, instead, his sentence was governed by his status as a career offender. Thus, the Court is not persuaded that any future reduction in the crack cocaine offense levels by the U.S. Sentencing Commission would impact Defendant's sentence.

Accordingly, in light of the above analysis, defendant's request for reduction under 18 U.S.C. 3582(c)(2) based on the one to one ratio of crack to powder cocaine is **DENIED**. (Doc. # 477).

**IT IS SO ORDERED.**

s/ Terry L. Wooten  
TERRY L. WOOTEN  
UNITED STATES DISTRICT JUDGE

May 18, 2010  
Florence, South Carolina